

REMARKS/ARGUMENTS

Claims 1-4 and 17-20 are currently pending. In response to the Office Action, Applicant has amended Claims 1-4 and 17-18, which when considered with the following remarks, is deemed to place the present application in condition for allowance. In particular, Claims 1-4 and 17-18 have been amended so as to require that the sequence identified by the respective SEQ. No. is chemically linked to one or more moieties that enhance cellular uptake of said antisense molecule in to a cell. Support for these amendments can be found throughout the specification and claims, as originally filed, and in particular at pages 29 and 32. No new matter has been added. Claims 19 and 20 have been cancelled.

In the Office Action, Claims 1-4, 17 and 18 have been rejected on the ground of non-statutory obviousness-type double patenting as allegedly unpatentable over claims 1-7 of U.S. Patent No. 5,670,318 ("the '318 patent"). Applicant respectfully requests that the Examiner hold in abeyance the rejection of Claims 1-4 and 17 and 18 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-7 of the '318 patent until the presently claimed subject matter is deemed allowable. At that time, Applicant agrees to revisit this rejection and the necessity for filing a terminal disclaimer.

In the Office Action, Claims 1-4, 17 and 18 have been rejected on the ground of non-statutory obviousness-type double patenting as allegedly unpatentable over claims 1-7 of U.S. Patent No. 5,736,329 ("the '329 patent"). Applicant respectfully requests that the Examiner hold in abeyance the rejection of Claims 1-4 and 17 and 18 on the

grounds of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-7 of the '329 patent until the presently claimed subject matter is deemed allowable. At that time, Applicant agrees to revisit this rejection and the necessity for filing a terminal disclaimer.

In the Office Action, Claims 1-4, 17 and 18 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting as allegedly unpatentable over claims 17-19 of co-pending U.S. Patent Application No. 10/503,782 in view of the '318 patent. At that time, Applicant agrees to revisit this rejection and the necessity for filing a terminal disclaimer.

In the office action, claims 1-4, 17 and 18 have been rejected under 35 USC § 102(b) as allegedly being unpatentable over the '318 patent. As stated above, claims 1-4, 17 and 18 have been amended to require that the specific SEQ. ID. recited in the claim be chemically linked to one or more moieties that enhance cellular uptake of said antisense molecule in to a cell. This increases the uptake of the antisense sequence into the cell so that the antisense sequence can either up-regulate or down regulate the levels of BC200 in the cell.

It is axiomatic that anticipation under section 102 requires that the prior art reference discloses *every element* of the claims. *In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986). Thus, there must be no differences between the subject matter of the claim and the disclosure of the prior art reference. Stated otherwise, the reference must contain within its four corners adequate direction to practice the invention. The corollary of this rule is equally applicable. The absence from the reference of *any* claimed element negates anticipation. *Kolster Speedsteel AB*

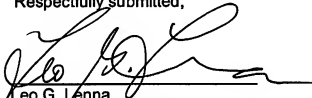
v. Crucible Inc., 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986).

In view of the fact that the '318 patent does not teach chemically linking the Sequence ID to one or more moieties that will result in enhancing cellular uptake of said antisense molecule in to a cell, the rejection must be reconsidered and withdrawn.

In view of the foregoing remarks and amendment, it is respectfully submitted that all claims pending herein are in condition for allowance. Please contact the undersigned should there be any questions or concerns.

Early and favorable consideration of the case is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Leo G. Lenna', is written over a horizontal line.

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